

**III. COMMENTS AND OBJECTIONS
TO THE STURLA/NOLAN ORDINANCE**

AN ORDINANCE AMENDING PART TWO OF DIVISION III OF THE SAN MATEO COUNTY ORDINANCE CODE BY THE ADDITION OF A NEW CHAPTER 6.2 IMPOSING MORATORIUM ON BREEDING, MANDATING SPAYING/NEUTERING OF DOGS AND CATS AND PROVIDING FOR A BREEDING LICENSE PROGRAM

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LINES 14 - 16: We determined that this statement was not true. The operative word here is healthy. The Peninsula Humane Society Animal Count for Fiscal Year 1989-1990 showed that 268 unwanted dogs and 800 unwanted cats were euthanized. The rest were categorized as "unadoptable." The reference to "healthy but abandoned" can truthfully be applied to the 1,068 animals that were killed for no reason other than there weren't enough available homes.

We determined that 80% of the total number of animals euthanized were cats. The findings did not note the numerical categories for cats and dogs, and indiscriminately included both dogs and cats together. A breakdown of how many cats and how many dogs is essential because legislation must be rationally related to a substantiated problem. It is not rational to design restrictive legislation against the owners of dogs simply because there are too many cats.

We determined that approximately 3.5% of the total animals euthanized were from the unincorporated part of the County. The findings used a County-wide figure as a basis for legislation which can only be directed at the citizens who reside in the unincorporated part of the County. It is not reasonable to enact legislation which substantially restricts the activities of people in unincorporated San Mateo County, when the facts demonstrate this segment of the population is not a significant contributor to the problem. The unincorporated residents should not be held accountable for the actions of those who reside in the municipalities.

LINES 17 - 21: Police powers should not be exercised when the regulations imposed do not rationally relate to a legitimate government purpose. A remedy already exists for the largest portion of the animals being handled and which cannot be safely or legitimately placed into adoptive homes. It is ethical and moral to destroy dangerous animals. It is compassionate and merciful to painlessly end the suffering of sick and injured animals. It would not be cost effective, acceptable or ethical to release into the hands of the public domestic animals which are dangerous, unsocialized, in pain or diseased.

LINES 22 - 27: Some of these assumptions were never substantiated.

LINES 28 - 32: This addresses only one of the variables - unwanted births - in the multifaceted problem of stray and surrendered animals. It presupposes the false premise that sterilization alone will end euthanasia.

Most of the animals euthanized were unwanted cats. No rationalization is stated as to how restricting the rights of dog and cat owners in San Mateo County will change the reproductive practices of unwanted cats.

The FINDINGS are important, in that they form the fundamental rationalization for enacting the ordinance. The findings must be predicated and firmly based on fact in order to be valid. We determined the findings were not supported by the data presented.

The Board of Supervisors of the County of San Mateo, State of California, ORDAINS as follows:

SECTION 1. Part Two of Division III of the San Mateo County Ordinance Code is amended to add a new Chapter 6.2 to be numbered and entitled and to read as follows:

CHAPTER 6.2.

Section 3332. FINDINGS.

The Board of Supervisors finds and determines that:

- (a) Approximately 10,000 healthy but abandoned dogs and cats are euthanized annually in San Mateo County by the Peninsula Humane Society.
- (b) Due to the large numbers of stray and abandoned cats and dogs, euthanasia is not a cost effective, acceptable or ethical solution to the threats to public health and safety posed by large populations of stray domestic animals.
- (c) Stray and abandoned pets, specifically cats and dogs, create numerous public health and safety problems, including transmission of disease, attacks by stray dogs on people, livestock and pets, and traffic hazards created by stray dogs and cats running loose on public streets.
- (d) A moratorium on breeding of cats and dogs owned or harbored in San Mateo County, combined with a contingent program for mandatory spaying/neutering, is a reasonable and effective means of reducing the population of abandoned or stray cats and dogs.

Section 3332.1 DECLARATION OF INTENT.

The Board of Supervisors of San Mateo County hereby finds and declares that it intends to provide for the public health, safety and welfare through a moratorium on breeding of cats and dogs owned, harbored or kept in the unincorporated areas of San Mateo County in order to bring the population of abandoned and stray animals to an acceptable level for protection of the public health, safety and welfare. Further, if the moratorium does not achieve this goal, a program for mandatory spaying/neutering will be instituted in order to attain an acceptable population level.

Section 3332.2 DEFINITIONS:

For the purposes of this Chapter, the following terms are defined as follows:

- (a) "Animal Control Program" means the program defined by Section 3330.0(a) of this Code.
- (b) "person" shall mean any individual person, partnership, corporation, trust, or association of persons.
- (c) "Zero growth" shall mean that level of population growth of cats and dogs at which control of the population of stray or abandoned cats and dogs can be accomplished without the necessity for euthanasia of any healthy dog or cat in San Mateo County.

Section 3332.3 MORATORIUM ON BREEDING OF CATS AND DOGS.

- (a) There is hereby established a moratorium on breeding of all cats and dogs owned or kept within the unincorporated areas of San Mateo County. This moratorium shall become effective six (6) months from the effective date of this ordinance, and shall remain in effect for six (6) months thereafter. However, the Board of Supervisors will review the progress of the Community Animal Control Task Force, established hereunder, within five (5) months of adoption of this ordinance and determine if substantial progress has been made towards achieving the goals of this ordinance. If the Board finds that substantial progress has been made, it may, by resolution, postpone and/or eliminate the moratorium provided herein.
- (b) No person shall cause or allow any cat or dog owned, harbored or kept by that person within the unincorporated areas of San Mateo County to breed or reproduce during the moratorium established under Subsection (a) of this Section.
- (c) No person shall transport any dog or cat to, from or within the unincorporated area of San Mateo County.

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LINES 34 - 43: The findings failed to support this ordinance for two reasons:

- They don't show the relationship between responsible ownership of intact animals and their alleged threat to society.
- They don't demonstrate a reasonable need to support the use of police power.

LINES 51 - 59: Zero growth is impossible to achieve. As written, Peninsula Humane Society would determine whether or not zero growth was ever achieved. This would be based on whether they had the necessary to euthanize even a single healthy animal. Animals determined unadoptable due to unmitable temperament are often physically healthy.

LINES 57 - 70: The need for a moratorium was never logically justified. Prohibition of breeding would be unconstitutional because it would be considered restriction of trade.

LINES 71 - 75: Unenforceable. People cannot control the reproductive behavior of unowned animals.

LINES 76 - 80: Violates interstate commerce laws. Clearly intended to restrict people conducting planned scientific propagation, since they are the only ones who transport animals for the purposes of breeding.

LINES 82 - 86: The moratorium was set up for failure. As long as Peninsula Humane Society continues to follow procedures and policies that cause euthanasia, without accountability to the citizens of San Mateo County, zero growth could never be achieved.

LINES 87 - 95: This is in conflict with the Constitutional right to own intact animals without special permission.

LINES 97 - 100: The Board of Supervisors would not be qualified to set these criteria, since they are not knowledgeable concerning animal husbandry practices. Criteria for breeding practices could not be uniform, because they vary species to species and breed to breed.

LINES 101 - 104: There is no supporting data to indicate the need to single out breeders of purpose bred animals and subject them to a special license or tax. These people are part of the solution, not part of the problem.

IN CONCLUSION: This law creates the need for an action response from every citizen owning a dog or cat in the County, regardless of whether they are or ever will be a part of the problem or not.

This ordinance served as an awareness tool, and was the catalyst for bringing together the various animal groups. Creative incentive based programs which will encourage every dog and cat owner to participate in solving the pet population problem in San Mateo County have been developed. We strongly urge that this ordinance now be set aside in favor of these incentive programs.

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for the purposes of breeding such dog or cat, during the moratorium period specified by Subsection (a) of this Section.

Section 3332.4. MANDATORY SPAYING/NEUTERING.

(a) This Section shall become effective after expiration of the moratorium established by Section 3332.3 of this Chapter, unless the Board of Supervisors determines that the population of dogs and cats owned or kept in San Mateo County has reached zero growth.

(b) No person shall own, harbor or keep within the unincorporated areas of San Mateo County any cat or dog over the age of nine months which has not been spayed or neutered, unless such person holds either a license for breeding cats or dogs issued by the Animal Control Program under Section 3332.5 of this Chapter or a written certification from a licensed veterinarian that, due to health considerations, the animal should not be spayed or neutered.

Section 3332.5 LICENSES; ADMINISTRATION.

(a) The Animal Control Program shall administer a license program to allow breeding of cats and dogs consistent with criteria and according to procedures adopted by the Board of Supervisors.

(b) Each applicant who is issued a license to breed cats or dogs under this Section shall pay a license fee according to the fee schedule adopted by the Board of Supervisors.

(c) The Board of Supervisors shall appoint a Community Animal Control Task Force to recommend criteria, procedures and fees for the issuance and revocation of the licenses provided for by this Section. Such Task Force shall include representatives of the Peninsula Humane Society, Pets in Need, the Animal Control Program, local animal breeding organizations and local veterinarians. Additionally, the Task Force shall develop a program of community education.

The Task Force shall also recommend solutions to the problem of "puppy mills", mass breeding facilities which transport young puppies to pet dealers over long distances, resulting in a substantial increase in the population of unhealthy dogs offered for sale to consumers. The Task Force shall also review all policies and procedures of the County Animal Control Program, the Peninsula Humane Society, and local leash laws and their enforcement.

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Section 3332.6 PENALTY FOR VIOLATION.

Except as otherwise provided by this Chapter, any violation of the provisions of this Chapter shall be punishable as an infraction, the penalty of which shall be as follows:

- (a) A fine not to exceed one hundred (\$100.00) dollars for a first violation.
- (b) A fine not exceeding two hundred (\$200.00) dollars for a second violation within one year.
- (c) A fine not to exceed five hundred (\$500.00) dollars for each additional violation within the same year.

Section 3332.7 WAIVER OF PENALTY.

- (a) The Animal Control Program may dispense any citation for a violation of this Chapter if the person cited demonstrates to the satisfaction of an Animal Control Program Officer that the subject cat or dog has been spayed or neutered within thirty (30) days of the citation, or within ninety (90) days after giving birth for female animals who have given birth within the ninety days prior to the citation.
- (b) During the 1991 calendar year, Peninsula Humane Society will undertake an informational campaign in order to promote voluntary compliance with this Chapter.

Section 3332.8. RESPONSIBILITY FOR ENFORCEMENT.

The Animal Control Program shall be responsible for the enforcement and administration of this Chapter.

Section 3332.9 USE OF REVENUE.

All revenue derived from the fines, penalties and license fees collected under this Chapter shall be used to recover or offset the costs of enforcement and administration of this Chapter.

SECTION 2. This Ordinance shall remain in effect until February 1, 1994, and shall become inoperative thereafter unless prior to said date the Board of Supervisors shall take appropriate action to extend the duration of this Ordinance.

SECTION 3. This ordinance shall become effective thirty days after adoption.

SHING
MAYERS
12/12/90